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Capital News Service

Thousands oppose states' challenge of EPA

By JUSTINE MCDANIEL Capital News Service | Posted: Friday, February 28, 2014 3:30 am

WASHINGTON — Three weeks after 21 states signed on to a lawsuit challenging the Environmental Protection Agency's Chesapeake Bay pollution limits, more than 25,000 people have signed a petition condemning the suit.

The Chesapeake Bay Foundation petition has garnered an unusually high response from the public in the 23 days since the attorneys general from states like Florida, Kansas and Alaska filed an amicus brief in support of the lawsuit.

"It's quite a statement of the public's interest in this issue," said Kim Coble, the Bay Foundation's vice president for environmental protection and restoration.

The lawsuit, filed by the American Farm Bureau Federation, the Pennsylvania Farm Bureau, the National Association of Home Builders and other related industry groups, challenges pollution

limits set by the EPA under the Clean Water Act.

The Chesapeake Bay Foundation and several partners sued the EPA in 2009 asking a federal court to require the agency to reduce pollution in the Bay after it became clear states wouldn't meet a cleanup goal they agreed to in 2000. As part of the settlement, the EPA created pollution limits in 2010, which the Chesapeake Bay Program refers to as the Bay "pollution diet."

Each state in the Chesapeake Bay watershed created cleanup plans to reach the pollution diet goals. The EPA can impose consequences on states that fail to reach the goals by designated two-year milestones.

Efforts by Maryland and other states to restore the Chesapeake Bay have been underway since 1983. The Chesapeake watershed includes all or parts of Maryland, Delaware, Virginia, West Virginia, Pennsylvania, New York and the District of Columbia.

The 21 states opposed to the plan question the EPA's authority to impose pollution limits, also known as Total Maximum Daily Loads or TMDLs, saying the agency is violating states' rights.

"EPA's untenable interpretation of its authority under the CWA has unlawfully usurped States' traditional authority over land-management decisions," the attorneys general wrote in their amicus brief, filed February 3.

Coble said the arrangement with the EPA is the best approach to cleaning up the Bay and gives states the autonomy to decide how to meet EPA goals. It has been very successful so far and the Pennsylvania court found no evidence of federal overreach, she said.

"This lawsuit, the appeal of the decision and the friend-of-the-court brief that has been filed threatens and potentially ends the success that we've been seeing with the cleanup plan. There's a lot at stake," Coble said.

Nitrogen levels in the Bay decreased by 18.5 million pounds between 2009 and 2012, a reduction that represents a quarter of the long-term goal, said Rich Batiuk, associate director for science with the EPA Chesapeake Bay Program office.

Nitrogen is one of the top three Bay pollutants, and it comes from many everyday human activities. An excess of nitrogen can disrupt the Bay's system, harm drinking water and lead to habitat loss, Batiuk said.

"There are over 17 million of us that call the Chesapeake Bay watershed home ... Life in the mid-Atlantic is really so intricately tied into the Chesapeake Bay and its hundreds and hundreds of rivers and streams," he said.

The lawsuit opposing the pollution diet originated in 2010 and was struck down in federal court in Pennsylvania in September. The Farm Bureau and associated parties appealed to the 3rd U.S. Circuit Court of Appeals, and all parties will have filed briefs in the appeal by the end of April.

The opposed states, some of which have major natural resources of their own, like the Lake Michigan and Florida Everglades watersheds, said they want to regulate land use within their own borders.

“(T)his case has far-reaching implications for States across the country,” they said in the brief. “If this TMDL is left to stand, other watersheds, including the Mississippi River Basin (which spans 31 states from Canada to the Gulf Coast), could be next.”

In Florida, the state is working with the EPA and using state and federal money to fund restoration of the Everglades. State officials signed a long-awaited \$880 million deal with the federal government last year.

All the states whose attorneys general signed the brief are outside the Chesapeake Bay watershed except West Virginia, whose Republican attorney general, Patrick Morrisey, replaced Democrat Darrell McGraw, who was in office when the cleanup agreement was approved.

The attempt by out-of-region states to influence the Chesapeake and the appeal of what Coble called a “very, very strong, legal, solid decision” make this conflict a singular struggle in the Bay’s history, she said.

“There’s, needless to say, many challenges with the work of restoring the Bay, but this one’s unique,” Coble said. The circumstances “make the situation much more urgent than other challenges we’ve had.”

Charleston Gazette

Feds still working on leak impact studies

By Ken Ward Jr.

CHARLESTON, W.Va. -- A month after completing their work in West Virginia, federal scientists are still working to finalize an analysis of hospital records of residents who were treated after last month's Elk River chemical leak, and are planning additional work to help understand the leak's public health impact.

U.S. Centers for Disease Control and Prevention officials are conducting a patient-chart review, which will give more detail about how many residents exposed to contaminated water sought hospital treatment and what types of symptoms they experienced.

The report is not necessarily designed to provide any concrete answers about whether chemical exposure caused those symptoms, or address claims by some state officials that such symptoms were really related to the flu or anxiety about the chemical leak. However, with a more definitive

examination of the population's potential chemical exposure and reported symptoms, scientists will be better able to understand the leak's effects on public health.

"Generally speaking, the scientists would be looking for patterns and associations, and sometimes suggestions for follow-up," said CDC spokeswoman Barbara Reynolds. "The cause would not be captured in the data collected in this Epi-Aid."

The phrase "Epi-Aid" is the CDC's term for epidemiological assistance the agency provides to states. Epidemiology is the study of patterns, causes and effects of health problems in defined populations.

In this instance, the CDC is responding to a state request that federal scientists help to assess the impact of the leak of the coal-cleaning chemical Crude MCHM from the Freedom Industries tank farm. The leak, just upstream from West Virginia American Water's intake, contaminated the water supply of 300,000 people in nine counties.

Loretta Haddy, state epidemiologist with the Bureau for Public Health, said Thursday the CDC's report is based on the agency's review of hospital records of the more than 500 people who sought treatment after the leak.

The report will provide what Haddy called "descriptive epidemiology," meaning it will outline what sorts of symptoms patients experienced and what sorts of chemical exposures they might have reported to doctors. Some of that information has been made public before, in periodic state briefings and interviews with local health officials. The CDC's analysis of the hospital charts is much more methodical, officials said.

"It's a little more descriptive," Haddy said of the CDC report.

Haddy said the CDC analysis would "look closely for associations of cause, but one of the limitations is that you cannot have direct association of cause" based only on the hospital record review.

Five days after the leak, Haddy wrote to the CDC and its sister agency, the Agency for Toxic Substances and Disease Registry, to request assistance in performing what's called an Assessment of Chemical Exposure, or ACE, to help understand the leak's impacts.

Among other things, Haddy asked for the hospital chart review and a broader study called a Community Assessment for Public Health, or CASPER.

Haddy said Thursday that this project, scheduled to start in early April, would involve a door-to-door survey of more than 200 homes in the region. Residents would be asked a variety of questions about the leak, including if they were exposed to the water and if they experienced any health problems.

While the hospital chart review provides information about residents who sought medical treatment, the door-to-door survey will give scientists information about a more random

selection of residents, Haddy said.

In the days just after the chemical leak, the CDC repeatedly dodged questions about how it developed a Crude MCHM screening level that state officials and the water company used as a target concentration for lifting the broad "do-not-use" order that was issued.

Since then, after the Tomblin administration came under heavy criticism for its response to the water crisis, state officials briefly began pointing fingers at the CDC and the U.S. Environmental Protection Agency, saying federal officials had not provided the state with enough help.

Such comments have re-emerged in recent days. For example, a state-hired water and plumbing system expert, University of South Alabama engineer Andrew Whelton, publicly asked why the CDC's report on health impact hasn't been released yet.

On Thursday, all five members of the state's congressional delegation wrote to CDC Director Thomas Frieden to support a Feb. 18 request from Gov. Earl Ray Tomblin for federal help.

"This disaster has been ongoing for over a month now," the congressional delegation's letter stated. "There is palpable concern and frustration among our citizens, which we share. It is clear that additional testing is necessary to protect the health and safety of West Virginians, and to reassure the public."

It's not exactly clear, though, what specific studies Tomblin was asking the CDC to perform. The governor's letter mentions, "Further epidemiological and/or toxicological studies," as well as "a specific need to address ongoing population surveillance or monitoring."

Amy Goodwin, Tomblin's communications director, said the administration wants the CDC to provide guidance on short- and long-term monitoring of exposed residents and to provide money for such studies.

Reynolds, the CDC spokeswoman, said the agency does not do the sort of toxicological testing that would expose lab animals to Crude MCHM to develop more data about the chemical's health impact. Reynolds said the CDC has not yet responded to the governor's letter, but would do so.

Haddy said her agency is awaiting results of the CDC's hospital chart study, which is undergoing internal review and should be released soon.

Under various versions of CDC guidelines -- all dated from the 1990s -- the chart review report was supposed to have been completed within 14 days of CDC officials returning to their offices from their field work in West Virginia. The CDC team was in West Virginia from Jan. 16 through Jan. 30, Reynolds said.

CDC officials said the agency guidelines for Epi-Aid reviews have not been updated and "may be outdated in practice."

The agency's "optimal goal" for such a report to be completed is to have a draft within two

weeks for internal review, Reynolds said.

Charleston Gazette

DEP finds more chemical tanks near water

By Ken Ward Jr.

CHARLESTON, W.Va. -- West Virginia inspectors have discovered 600 more above-ground chemical storage tanks located near public drinking-water supplies, pushing their current inventory to more than 1,600 such tanks, according to data made public Thursday.

The Department of Environmental Protection for the first time released lists of storage tanks that could be subject to new rules if lawmakers pass legislation drawn up in response to the January chemical leak on the Elk River.

DEP officials cautioned that they could end up with a final inventory showing even more storage tanks located in or near the "zone of critical concern" near public water-supply intakes.

"These lists obviously are not meant to be an official inventory of [above-ground storage tanks] in the state," agency spokesman Tom Aluisse said in an email message. "They're fluid documents and will change."

DEP inspectors are still visiting more than 100 sites they believe have tanks located near drinking-water intakes, and plan to examine a much larger number -- 600 facilities with an estimated 3,000 tanks -- to confirm locations, double-check the number of tanks and examine the tank contents.

"We're making good progress," said Scott Mandirola, director of the DEP's Division of Water and Waste Management, "but we didn't have an easy way to figure this out, knowing where all these are."

After the Jan. 9 leak of Crude MCHM at Freedom Industries contaminated the drinking-water supply for 300,000 West Virginians, the DEP began putting together an inventory of above-ground chemical storage tanks across the state. They looked at water-pollution permit information, compared that to mapping data that pinpoint water-intake locations, and then went through permit files to identify facilities with plans showing storage tanks.

DEP Secretary Randy Huffman told a U.S. Senate committee on Feb. 4 that the agency had put together a preliminary inventory of more than 100 sites with "as many as 1,000" above-ground storage tanks located "within an area that could impact a public drinking-water source."

The latest numbers from the DEP show 595 facilities with an estimated 3,953 above-ground storage tanks. DEP officials estimate that 109 of those facilities, with 1,618 storage tanks, are located "within close proximity" to a public water supply.

The DEP's new lists include a wide variety of sites, from coal-fired power stations and chemical plants to lumber mills and trucking operations. The lists released Thursday do not identify the chemicals in question, quantities stored in the tanks or any preliminary DEP analysis of the sites.

To define tanks that could potentially impact public water systems, DEP officials expanded the area covered by the Bureau of Public Health's "zone of critical concern." The bureau defines the term to cover anything located within five hours upstream and within a 1,000-foot corridor around main-stem water supply streams and 500 feet alongside tributaries. The DEP added 500 feet to the main-stem and tributary zones to be more inclusive, officials said.

"As we make our way to more and more of the sites in the zones of critical concern, we'll potentially discover fewer or more tanks than we originally estimated," Aluisse said. "Our focus right now is to get accurate information on the sites in the [zones of critical concern]."

State Impact Pennsylvania

DEP fined oil and gas companies \$2.5 million last year

February 27, 2014 | 2:00 AM

By Laura Legere

Oil and gas companies were fined \$2.5 million by Pennsylvania environmental regulators last year for violations at well sites and pipeline routes.

The 2013 total was the third highest in the three decades of oil and gas penalties the Department of Environmental Protection tracks in its [public compliance report](#). Oil and gas companies were fined higher amounts only in 2010 (\$2.7 million) and 2011 (\$2.6 million), according to the database. (Tallying the fines in a different way through its fiscal report, DEP said the 2013 total was actually tied with 2011.)

Unlike recent years when high-profile spills, fires or methane migration cases attracted attention and hefty penalties, 2013 saw smaller but significant fines issued without fanfare to companies for violations that accumulated over years. Six of the 20 largest fines ever levied by DEP's oil and gas program were handed out last year, but only one was among the ten largest.

Many violations are years old and have been resolved by the time regulators decide on a penalty, which can encompass dozens of problems at separate sites. Most fines receive little or no public attention when they are settled. DEP issued press releases announcing three of 135 fines in the

oil and gas compliance report last year, according to its archive, and one press release described two of the fines.

DEP spokesman Eric Shirk said the agency can combine multiple violations by a company into one penalty assessment rather than issuing separate fines. The department calculates penalties based on several factors, including which laws or permit limits were broken, how severe the violations were and whether the acts were intentional. He said the agency issues press releases “as deemed necessary,” for example, when an incident has received media attention or when a violation is caused by reckless behavior or has a significant environmental impact.

“If a particular incident garnered media interest, we will do a press release on the enforcement action of that incident,” he said. “If members of the media have followed a particular matter and the department has provided all the relevant information based on these inquiries so that the matter is already conveyed to the public, it may not be necessary to issue a press release.”

Storms and streams

Williams Companies, through three pipeline subsidiaries, paid the most in fines in 2013 for excess erosion and drilling mud spills into creeks during pipeline construction and underground boring operations. The subsidiaries, Laser Northeast Gathering, Williams Field Services and Laurel Mountain Midstream, paid a combined \$388,694 in fines for 105 violations between March 2011 and September 2012. Williams Field Services and Laser paid one fine each for a host of problems at their sites in Susquehanna, Wyoming and Luzerne counties; they were the second and third largest fines of the year, at \$169,648 and \$164,622. Laurel Mountain Midstream paid three fines totaling \$54,424 for operations in southwestern Pennsylvania.

Williams was not responsible for the Laser violations, which happened before Williams bought the company in 2012, but Williams assumed Laser’s liabilities and paid the fine.

Williams spokeswoman Helen Humphreys said many of the problems in the northeast stemmed from wet weather brought by Hurricane Irene and Tropical Storm Lee in 2011, while other violations happened during horizontal directional drilling, which is used to bore pipeline paths under waterways. The company has since hired an engineering expert in the directional boring process to implement better design, evaluation and management practices. It has also created a compliance team of engineers and biologists to train its environmental inspectors and construction crews and communicate with regulators.

The program has earned praise from regulators, she said. “Once Pennsylvania DEP closes out its 2013 record of violations, we’ll measure the impact that the compliance team has had,” she said. “But we think we’re going to have a very good result.”

Regulators fined Seneca Resources Corp. the second largest total amount in 2013: \$377,000 in seven fines that encompassed 59 violations from February 2010 to March 2013. The company operates both conventional and unconventional wells in the state and the fines settled violations in northwestern and north-central Pennsylvania. More than half of the violations were associated with sites on public lands.

Seneca spokesman Rob Boulware said the fines were principally focused on three incidents: “a road collapse during extreme weather conditions in 2011, a fuel spill which led to a fairly involved clean-up but caused no pollution of any water resource,” and “a spill that resulted from vandalism.”

The company’s infractions also included fluids seeping through a well pad in a Tioga County state forest and a spill during directional boring under a Class A trout stream.

Other companies that were fined the largest amounts last year include PVR Partners (\$170,000), U.S. Energy Development Corp. (\$150,000), Antero Resources (\$148,250), Pennsylvania General Energy (\$125,500), Range Resources (\$120,050), Schreiner Oil & Gas (\$112,000), XTO Energy (\$74,261), and Chesapeake Energy (\$71,362).

Performance report

Oil and gas companies emphasize that the total fines they paid last year do not necessarily reflect their overall performance record.

A recent state performance report released by the Governor’s Budget Office found that the number of oil and gas enforcement actions declined 19 percent and violations declined 36 percent between fiscal years 2011-2012 and 2012-2013. Between the start of 2010 and the end of 2013 – the period when DEP found most of the violations that led to the 2013 fines – regulators made nearly 95,000 oil and gas inspections across the state and recorded violations during 7.6 percent of them.

“It is a mischaracterization to simply judge an operator by a fine paid in any given year, since violations are negotiated over time and often do not reflect an incident from the year in which a settlement is reached,” Boulware said.

“We constantly adjust our procedures, which has led to a decline in operational infractions each year,” he said. “And that’s a trend we expect to continue.”

DEP’s oil and gas program issued fewer fines overall in calendar year 2013 than in 2012 or 2011 but the average penalty amount was higher: \$18,750 in 2013 compared to \$15,000 in 2012 and \$16,500 in 2011, according to the compliance report.

A 2012 update of the state’s oil and gas law raised the maximum civil penalty for unconventional operators from \$25,000 plus \$1,000 per day to \$75,000 plus \$5,000 per day, but DEP has not yet needed to use the increased penalty ceiling in its enforcements, Shirk, the agency spokesman, said. The reason is, in part, that one incident often violates more than one environmental law and DEP has the discretion to consider them together.

“For example, a violation that results in a discharge or spill to a waterway would likely be a violation of the Clean Streams Law as well as the Oil and Gas Act,” he said.

George Jugovic Jr., chief counsel for the environmental organization PennFuture who used to direct DEP's southwest regional office, said monetary penalties are meant to deter companies from repeating violations, but the size of a fine alone can't tell you whether it will make an impact.

"It's more about corporate policy and corporate culture," he said. "Do they hold persons responsible in their organization when an environmental violation occurs? Because that's going to make a difference."

Regulators do not rely on fines alone to enforce environmental laws. Under Pennsylvania's oil and gas law, for example, companies can be denied a drilling permit in some circumstances if they have continuing violations elsewhere in the state. But a powerful compliance tool available to regulators in the solid waste and mining programs is not an option for oil and gas regulators under the current law, he said. In those programs, a company's historical compliance record is also taken into account when regulators decide whether to grant a major permit.

"That has a real strong effect on corporate culture," he said. "People start thinking it's not just about correcting an existing violation and moving on. If I commit a violation as a corporation, and I rack up enough of them and they are serious enough, I may not be able to do business in the state anymore."

Here are the five largest fines last year that were not announced by DEP (and a sixth that was announced). Click on the dollar amounts to read annotated penalty agreements:

Seneca Resources: [\\$198,500](#)

Williams Field Services: [\\$169,648](#)

Laser Northeast Gathering: [\\$164,622](#)

U.S. Energy Development: [\\$150,000](#)

PVR Marcellus Gas Gathering: [\\$150,000](#)

Antero Resources: [\\$148,250](#)

Washington Post

Federal Diary column: Call for greater federal pay is exercise in hope, not optimism

By Joe Davidson, Published: February 27

A parade of Democratic politicians fired up a crowd of shivering federal employees rallying outside the U.S. Capitol on Thursday in support of better treatment and higher wages.

It was an exercise in hope, not optimism.

The two senators and three representatives who addressed the National Treasury Employees Union (NTEU) Legislative Conference this week each indicated support for a federal pay raise greater than the 1 percent that President Obama will propose in his budget message next week.

Yet none of them expect the employees to get more than that.

Should federal workers get more than 1 percent?

“Absolutely, it should be higher,” Rep. Steny H. Hoyer (Md.), the No. 2 Democrat in the House, told reporters. Hoyer sponsored the 1990 law that was designed to make federal pay almost, but not quite, comparable to private-sector wages. That law has never been fully enforced.

Will Congress approve a greater increase?

“No,” he said flatly. “Republicans . . . have the perverse judgment that somehow federal employees are overpaid.”

Two key House Republicans who have significant influence over issues affecting the workforce, Darrell Issa (Calif.) and Paul Ryan (Wis.), chairmen of the Oversight and Government Reform and Budget committees respectively, had no comment.

Hoyer arrived to cheers of “Steny, Steny, Steny” and didn’t disappoint the crowd. He cited the \$138 billion he said federal employees have contributed to deficit reduction through a three-year freeze on their basic pay rates and other measures.

“We need to bring down the deficit,” he added, “but not on the backs of our federal workers who are making America better everyday. . . . Enough is too much.”

Also addressing the NTEU delegates were Sen. Jon Tester (Mont.), who appeared at Wednesday’s opening session, and Sen. Benjamin L. Cardin (Md.), Rep. John Sarbanes (Md.) and Rep. Gerald E. Connolly (Va.), who each spoke at Thursday’s rally.

“This week we are here to ask Congress to support federal workers,” NTEU President Colleen M. Kelley said at Wednesday’s session. “We will fight for a fair pay raise. Federal workers are in danger of slipping from the middle class. That is a disgrace and we cannot let it happen.”

She outlined five priorities for the union:

- ● Providing adequate funding for agencies.

- Securing a 3.3 percent pay raise in 2015.
- Controlling drug costs in the Federal Employees Health Benefits Program (FEHBP) and fighting efforts to shift costs to employees and retirees .
- Opposing efforts to reduce the value of federal employee retirement benefits.
- Restraining federal contracting and lowering the amount contractors are reimbursed to the salary of the vice president.

Kelley said the government's foundation has been weakened by cuts to the workforce and agency budgets.

"As a result, the very essence of our government is at risk," she said.

Getting her union ready for this year's congressional elections, Kelley told the workers: "We need more friends in Congress. Many more."

She pushed the crowd to reward friends and punish enemies.

"We need to keep those who have supported us, in office," she said. "We need to unseat those who have targeted your pension, your pay and your jobs. . . . This is where the rubber meets the road. If we fail, the consequences may be dire. If we succeed, we have the chance to change the game and restore lost benefits and ensure fair treatment for all."

Delay on self-plus-one option

A self-plus-one coverage option won't be available in the health insurance program for federal employees and retirees until 2016, according to the Office of Personnel Management.

Currently, enrollees in FEHBP may choose between self-only coverage and self and family coverage. Family coverage rates are substantially more expensive and don't vary by how many additional persons are insured.

A budget law passed in December approved making a self-plus-one option, for the employee and one other person, available to enrollees as soon as 2015. But a spokesman said that OPM "expects to implement the self-plus-one option for the 2016 plan year."

More than 250 insurance plans participate in the FEHBP, the large majority operating only in local areas. Rates and coverage terms are negotiated annually between the carriers and OPM, a process that starts in the spring and ends with an open season each fall for enrollment decisions for the following year.

The OPM spokesman said in an e-mail that adding the option will require the insurance carriers, federal payroll systems and the federal retirement system to revamp their processes.

“Making this significant change across many systems would need to be completed well before the beginning of the 2015 open season to ensure user testing and quality assurance,” the spokesman said.

Easton Star Democrat

Healthy Bay depends on vast watershed

By JENNIFER ALLARD jallard@stardem.com | Posted: Thursday, February 27, 2014 3:30 am

Like the vascular system of the human body feeds its vital organs with life-giving blood, replenishing oxygen and nutrients and carrying away waste, the Chesapeake Bay’s surrounding tributaries and watershed function as any intimately entwined group of interdependent systems might. What affects one affects the other — the whole, in fact.

As the largest estuarine system in the United States, with 64,000 square miles of watershed, or “drainage basin,” the Bay provides an unparalleled setting that benefits both human and wildlife. Just so, it feels the impact of environmental change — whether natural or human-inflicted — in all its diverse layers. The 1,500 square miles of Chesapeake Bay wetlands are home to fish, shellfish and wildlife; its shallow waters filter and process residential, agricultural and industrial waste and protect coastlines against storm and wave damage.

According to the Environmental Protection Agency, this vast watershed, made up of territory from Delaware, New York, Pennsylvania, West Virginia, Maryland, Virginia and Washington, D.C., and composing one-sixth of the Eastern Seaboard, is responsible for almost half of the fresh water that enters the estuaries in the Mid-Atlantic Region. Its complex system of waterways includes the Potomac, Susquehanna, Rappahannock, York and James rivers, and contributes a freshwater flow of approximately 85,800 cubic feet per second to the Bay’s basin, where it mixes with tides to create its unique fresh and salt water-rich environment so vital to its inhabitants.

It takes a village

In 1983, when the EPA released its report on the Chesapeake Bay’s alarmingly declining health, it formed the Chesapeake Bay Program and enlisted the cooperative help of those surrounding states that directly impacted the condition of the Bay’s watershed — a leadership consisting of the governors from Maryland, Pennsylvania and Virginia, and the mayor of the District of Columbia, as well as scientific and citizen advisory representatives.

Since then, the scope of the original Chesapeake Bay Agreement has evolved to include more

stringent and definitive measures for assessing Bay health. As a result of the EPA's December 2010 enforcement of the Clean Water Act, the original partnership drew into its circle the governors of Delaware, New York and West Virginia. Furthermore, the EPA instituted Total Maximum Daily Loads (TMDL) as a means to measure the amount of sediment and nutrient deposits made to the Bay by each state.

The EPA also created Watershed Implementation Plans (WIPs) to challenge states and local governments to actively participate in Bay cleanup on a local level. According to the program, in 2010 Maryland developed watershed management plans for 54,018 of its acres. Local and federal governments also developed preservation plans for a total of 14 million acres in Maryland, Pennsylvania, Virginia and the District of Columbia, which is almost 62 percent of the program's goal.

Program partners said without specifically outlined goals and accountability close to home, efforts to clean up the Bay will suffer from lack of organization, funding, and short- and long-term viability. "Watershed management plans are strategic guides that help local communities protect and restore streams, forest buffers, wetlands, parks and other natural areas. Watershed plans preserve not only ecological health, but also the quality of life in communities," they said.

Many parts

make a whole

The Chesapeake Bay Program links the health of the Bay directly to its watershed ecology. Two important factors in their Bay report cards lay at the outskirts of the estuary itself — the nearby states' forests and fresh-water streams and rivers that contribute in large and small part to the heart of the Bay.

Forest cover provides a filter for water flowing to the Bay, removing carbon, creating a buffer against flooding and making a home for surrounding wildlife. According to the program, forests "protect and filter drinking water for up to 75 percent of the Bay's watershed residents ... and absorb and retain up to 85 percent of the airborne nitrogen from sources such as automobiles and power plants." When settlers arrived on the Chesapeake Bay in the 1600s, 95 percent of the watershed was cloaked in protective forests. Now only 55 percent of the Bay's watershed is forested with urban development cutting that number by 100 acres a day, said the program.

The Bay's tributaries also enjoy the same cleansing benefits of forest cover. In rural, densely forested areas, streams and rivers tend to be in good to excellent condition as opposed to water in urban areas. According to the program, "Between 2000 and 2010, 43 percent of sampled (Bay watershed) stream sites were in fair, good or excellent condition, and 57 percent were in very poor or poor condition."

In an effort to replace diminished forests, states boosted their forest replanting goals. According to the program's partners, from July 2011 to June 2012, about 285 miles of forest buffers were planted along the Bay watershed's streams and rivers. This is about 30 percent of the program's annual target to restore 900 miles of shoreline buffer a year. A total of 7,764 miles have been

planted watershed-wide since 1996 (the program began including New York, West Virginia and Delaware in their data results in 2010).

Current forest restoration rates are down from 2007 to 2010. According to data provided by the Chesapeake Bay Program partners, the state-by-state breakdown for forest buffer increase from 2011 to 2012 was:

- Maryland: 15.7 miles
- Pennsylvania: 170.7 miles
- Virginia: 63.2 miles
- West Virginia: 13.4 miles
- Delaware: 0 miles
- New York: 21.8 miles

The program said between 2011 and 2012, Pennsylvania, Virginia and West Virginia planted more forest buffers than during the previous year, Maryland planted fewer, and Delaware stayed the same. As in past years, Pennsylvania contributed the majority of miles in 2012. Since 2000, Pennsylvania has restored 5 percent of the forest buffer miles in the watershed, said the program.

The restoration of the Chesapeake Bay's vital watershed also depends on land conservation, said the program's partners.

"States, local governments, federal agencies and non-governmental organizations have identified millions of acres of lands with important conservation values — lands key to working farms and forests, to maintaining water quality, to sustaining fish and wildlife, to preserving history, and to providing for outdoor recreation.

"(...) For decades, Bay Program partners have pursued land conservation through permanently protecting important conservation lands by buying key properties, accepting donations, arranging for easements and purchasing development rights," they said.

The partner states met a 2010 goal of preserving 20 percent — or 6.8 million acres — of the total watershed land in Maryland, Pennsylvania, Virginia and the District of Columbia. Under Executive Order 13508, the "Strategy for Protecting and Restoring the Chesapeake Bay Watershed," the program aims to set aside an additional two million acres for conservation throughout the watershed by 2025. This includes creating or protecting 695,000 acres of forest to ensure improved water quality standards, said the partners.

Most recently, the Chesapeake Bay Program partners released the final draft of the Chesapeake Bay Watershed Agreement on Jan. 29. The agreement outlines the goals and outcomes for what the program partners believe will make a cleaner, more habitable Bay: sustainable fisheries and

vital habitats, improved water quality, healthy watersheds, ongoing land conservation, and increasing public awareness and responsibility with public access and environmental literacy.

In the agreement's preamble, the program's key partners point to consistent collaboration as the benchmark for a successful Bay restoration.

"One of the most important lessons learned from the past three decades is that, while watershed-wide partnerships help coordinate and catalyze, implementation happens locally," they said. "Local governments are key partners as are individual citizens, businesses, watershed groups and other non-governmental organizations. Working together to engage, empower and facilitate these partners will leverage resources and ensure better outcomes."

But resistance to the 2010 Clean Water Act's strict — and enforceable — "pollution diet" guidelines in the EPA's TMDLs and what some legislators perceive as too much government interference in local affairs, might put a strain on any dreams the program has of working together to effect change.

According to a case before the United States Court of Appeals in Philadelphia, the American Farm Bureau, along with 21 states' attorney generals, is appealing a September 2013 decision in federal court that upheld the right of federal and state organizations to restore water quality to the Chesapeake Bay.

Federal District Court Judge Sylvia H. Rambo rejected the farm bureau's challenge, stating the Bay partnership of EPA and states under the Clean Water Blueprint "did not lawfully infringe on the Bay states' rights because the Clean Water Act is an 'all-encompassing' and 'comprehensive' statute that envisions a strong federal role for ensuring pollution reductions," said an EPA spokesman.

A longtime partner of the Chesapeake Bay Program, the Chesapeake Bay Foundation, a group who, among other things, works as advocates and litigators, intervened in the bureau's original lawsuit on behalf of the Bay's restoration. In a statement released by the foundation, they encouraged continued cooperation of all parts and parties concerned with the future of the Bay:

"We say to the (21 states), don't tell us how to restore clean water in our backyard. Each of the six Bay states and the District of Columbia — including hard-working farmers, businesses and individuals — are cooperating. Together we are well on our way to making our rivers and streams safer, improving habitat, protecting human health and strengthening local economies. Those are good things, at least here."

Easton Star Democrat

Helping the Bay at home

By Laura Wormuth lwormuth@stardem.com | Posted: Thursday, February 27, 2014 3:30 am

About 18 million people live in the Chesapeake Bay watershed — an area encompassing 64,000 square miles. When a person takes a boat out on the Susquehanna in New York state, they are touching the same waters from which Marylanders, more than 400 miles to the south, will pull crabs and oysters.

Understanding the issues that face a region that big, tracing the sources and determining solutions to counteract the damage, is certainly a daunting task.

But there is hope for the Chesapeake Bay because there is a population of people who are passionate about restoring its health and reaching the goal of fishable, swimmable, drinkable, usable water.

The Eastern Shore is part of that population — and rightfully so — it is a community of people, some of whom have family ties reaching back generations of living and working from this land, that have the ability to help make a positive change in the environment.

Here is a list of things every individual can do to be a better steward of the Chesapeake Bay.

At home:

- Reduce, reuse, recycle — This long-standing chant still holds true, and the suggestions for ways to do this are innumerable. Find out from your local town when recyclables are picked up and how to get the green bin.
- Practice water efficiency — Fix leaky faucets; install water efficient showerheads and appliances; insulate water pipes. There is a full list of water conservation techniques on the [Environmental Protection Agency website](#).
- Buy local products and chemical-free products, including produce, soaps, detergent and makeup.

In the yard:

- Reduce fertilizer and pesticide use — Typically homeowners overuse chemicals and fertilizers high in nitrogen, and the excess runs off the land and into the local water system, contributing to the nutrient enrichment problem.
- Choose native plants and build a rain garden — Instructions and suggestions for how to make your lawn and garden Bay-friendly can be found on the [Chesapeake Bay Program website](#).
- Start a compost pile for biodegradable trash and for responsible disposal of your leaves. Leaves also can be mulched, but if you have to throw them away, use paper bags rather than plastic.

On the water:

- Stow trash and keep sewage onboard — It's only sensible that throwing trash directly into the Bay is a bad thing.
- Clean, paint and refuel boats responsibly — Prevent the highly toxic chemicals from getting into the water. Cleaning in between transports between water bodies also helps prevent invasive species problems.
- Fish responsibly — The Eastern Shore is a community with a history rooted in the fishing and crabbing. Irresponsible, and sometimes illegal, fishing practices not only hurt watermen who are economically dependent on aquatic populations, but also the recreational fisherman and anyone who eats seafood.

In the community:

- Check your Chesapeake Bay footprint — Find out how an individual's actions affect the Bay and see how much you contribute on the [Chesapeake Bay Foundation website](http://cbf.org) at cbf.org.
- Volunteer — Join a group or a cause like the Bay Cleanup program which collects trash from the shores every year. The Chesapeake Bay Program maintains a [directory of organizations](#) in the watershed region.
- Educate — Most importantly, share the knowledge that you gain with those around you. Encourage your neighbors, friends and children to learn about the Chesapeake Bay area and to treat this unique estuary with respect to protect and maintain it for future generations.

Greenwire

EPA: Nice guys finish ... second

By Robin Bravender, E&E reporter

Published: Thursday, February 27, 2014

Bob Perciasepe doesn't hold grudges.

He's been sued by friends, been passed over for a top job and regularly listens to lawmakers slaughter his last name.

But the second-in-command at U.S. EPA takes it all in stride. He has forgiven those who filed the lawsuits, has hung around to work in the agency's not-always-glamorous No. 2 slot and

calmly suggests that the lawmakers who mangle his last name just stick to "Bob."

"Bob is a person of very even disposition," said Robert Sussman, who worked at EPA with Perciasepe during both the Clinton and Obama administrations. "He's easy to get along with. He's not one of these people with an edge of any type."

As EPA's deputy administrator since 2009, Perciasepe gets credit from friends and former co-workers for keeping an even keel at the agency, which has seen its fair share of turnover in its upper ranks while weathering deep budget cuts and political controversies.

"Having Bob there has kept staff morale high; he's a guiding, steady hand," said Elliott Laws, a former Clinton-era EPA official who shared a Senate confirmation hearing with Perciasepe in 1993, when they were both chosen to be assistant administrators. "He brings a calm intelligence and decisionmaking and advising capability to that job, which is just so needed, especially over the past four years when the agency has just literally been under constant attack."

Perciasepe, 63, has stuck it out at the agency longer than many others in high-profile posts -- even after President Obama picked Gina McCarthy over him to be EPA chief last year -- and he's one of the longest-serving deputies the agency has had since its inception. It didn't hurt that Obama asked him to stay on, but those close to Perciasepe say it's emblematic of his roll-with-the-punches attitude and commitment to EPA.

"That says a lot about him personally as well as his loyalty to the agency and its mission," said Jonathan Cannon, a professor at the University of Virginia School of Law and another of Perciasepe's former Clinton-era EPA colleagues.

Perciasepe (his name is pronounced Pur-cha-seppy) was diplomatic when asked about McCarthy's getting the job. "The president has an amazing selection of people here at EPA. ... I was honored to be at least considered," he said in an interview. "But Gina's a very good friend of mine, and I love working with her."

Still, he isn't making promises about how long he'll stick around. "I really don't know what my plans are, to be honest," he said. "I don't know what the next chapter of my life is."

But he says he's happy with the gig: "I'm enjoying it, and I think I do a good job as the deputy administrator of EPA."

Perciasepe isn't someone who shies away from the spotlight -- but he's got a reputation for being comfortable playing backup.

"I think he knows when it is appropriate to let other people be in front," said Dru Schmidt-Perkins, president and CEO of the Baltimore-based advocacy group 1000 Friends of Maryland. "I haven't ever seen an ego problem with him."

Perciasepe's EPA office is loaded with baseballs and bird books. Photo by Robin Bravender.

Schmidt-Perkins has known Perciasepe for more than two decades, since he headed Maryland's Department of Environment in the early 1990s.

Several years into his career at EPA, Schmidt-Perkins called to inform the then-air chief that she'd be suing his agency.

"I had to call him up and say, 'Bob, I'm about to sue you. Sorry.'" Her group was challenging EPA's approval of a Baltimore air quality plan it argued was flawed, although EPA won the case.

Perciasepe wasn't fazed. He was "gracious" and "very professional," she said. "He never held it against me. ... Other people might have gotten quite upset." He even introduced her last year when she received an environmental award.

Sussman said he's only seen Perciasepe get mad "once or twice" but wouldn't divulge the details.

"I don't think of Bob as combative, but he's certainly capable of holding his own in a dispute," Cannon said. "He can be as tough as he needs to be."

'Where the rubber meets the road'

Perciasepe knows the nooks and crannies of EPA headquarters better than most, having worked as top brass for more than a decade and spanning two administrations.

"When I first came to EPA in 1993, we didn't have email," Perciasepe recalled. He joined EPA during the Clinton administration to lead the water office before moving to become air chief in 1998.

He spent the George W. Bush administration at the National Audubon Society, then returned to be the deputy administrator after Cannon -- Obama's first nominee -- abruptly withdrew his nomination (*E&ENews PM*, March 25, 2009). Having his friend and former colleague get the nod helped blunt the impact, Cannon said.

"It was a painful process for me," he said. "But I will tell you, when his name emerged as the nominee, I was delighted. I don't think EPA could have a better deputy administrator than Bob. It made me happy for the agency."

Perciasepe also held the reins at EPA for several months last year after former chief Lisa Jackson had vacated her post and McCarthy's confirmation dragged out on Capitol Hill.

Since July, he's been back in the No. 2 post, which can be a tough job.

"I wouldn't say it's glamorous," said Sussman, who was EPA's deputy administrator under then-chief Carol Browner. "A good deputy is where the rubber meets the road on a lot of nitty-gritty internal budgetary and organizational issues," he said.

The job is also at the center of sticky personnel and organizational issues, which for Perciasepe

has meant dealing with furloughs, sequestration and employee buyouts.

Sussman said Perciasepe is EPA's go-to-guy. "People know that if you need to fill a niche, if there's an important job and you need a solid person to do it, Bob is available and he's going to be very dependable and he's going to do a great job," he said.

'Just say Bob'

The gig also involves many slogs up Capitol Hill to testify about EPA's work and answer to opposition lawmakers with questions about controversies.

For Perciasepe, that has meant testifying on everything from drinking water regulations and budget requests to the ongoing saga of John Beale, a longtime EPA air official who pleaded guilty last year to stealing federal cash while pretending to be a secret CIA agent. Perciasepe is one of several top EPA officials whose role in the fraud has been the subject of continued scrutiny by GOP lawmakers.

Like with other top EPA posts, a thick skin is a job requirement.

If Perciasepe didn't have one, "he would not have survived all the jobs he's had -- and come back for more," said Linda Fisher, who had a host of top jobs at the agency, including deputy administrator during the George W. Bush administration.

"You've got to not personalize the attacks; you've got to realize they're because of the importance of the issue, and you've got to want to be a part of the solution and not take the attacks personally, and that can be hard," said Fisher, who is now DuPont's vice president of safety, health and environment and chief sustainability officer.

Despite all those appearances on Capitol Hill, lawmakers still stumble over his unusual last name.

At a hearing last October, House Oversight and Government Reform Chairman Darrell Issa (R-Calif.) paused when he read his name. "Persip- " he said, looking to an aide for help. "Perciasepe," he said after the staffer whispered to him. "I'll get better in time," Issa pledged.

Laws, who's now a partner in the Washington, D.C., office of Crowell & Moring, remembers former Sen. Duncan "Lauch" Faircloth (R-N.C.) having similar struggles back in the 1990s when Perciasepe testified before him. He "could not pronounce Bob's name for the life of him," Laws recalled. "It was the funniest thing -- Purcha-coopie."

Even Laws' secretary at EPA had a hard time with it.

She "came into my office once and said, 'Elliott, Bob Purcha-coopie's on the phone,' and I said, 'Who?' and she said, 'Bob Purcha-scoopie?' and I said, 'Who?' and I made her try and pronounce it four times straight. And when I picked up the phone, I was just on the floor laughing."

Perciaspe offered Rep. Gene Green (D-Texas) an easier solution at a House Commerce Committee hearing in 2000 about reformulated gasoline. "I have some questions of Mr. -- could you pronounce your name again?" Green said. Perciaspe replied, "Just say Bob."

Orioles, chimney swifts

If he does ever need to blow off steam, Perciaspe might do it playing catch in the courtyard outside EPA's headquarters.

"He likes to interrupt the day and go out and play catch with people," Sussman said, adding that Perciaspe had a large number of people who would go outside to play catch with him.

He's a pitcher, and he used to play in an over-50 league in Brooklyn, where he lived during his stint at Audubon and still has a place. He doesn't have enough time to play now, he said, but he gets back occasionally. He threw out the first pitch at a recent Washington Nationals game but didn't like the outcome. "Of course, when I threw out the first pitch at the Nats game, I threw it wide," he said.

Perciaspe's baseball fandom is evident to anyone who enters his third-floor office. He's got baseballs signed by Baltimore Orioles and proudly ticks off the names of three Hall of Famers: "Brooks Robinson, Earl Weaver, Jim Palmer. I've got all their signatures on there."

EPA's No. 2 has changed his look since his stint as Maryland's environment secretary in the early 1990s. Photo courtesy of the Maryland State Archives.

He grew up in Westchester County outside New York City and started out as a Yankees fan. "I was in Yankee Stadium when Roger Maris hit his 61st home run on the last game of the season. I was even in the right field upper deck, and it came right at me."

But he changed allegiances while living in Baltimore for about 25 years. Now, if the two teams go head to head, he's cheering for the Orioles. Baseball is in his blood. His grandfather played for a minor league team in New Rochelle, N.Y., in the 1920s, and he has a photo in his office of him in his old-fashioned uniform to prove it.

Perciaspe likes birds beyond the Baltimore Orioles.

Birdwatching guides are piled up on his coffee table, including one that was a gift from musician CeeLo Green and his sister, Shedonna Alexander -- a birder herself who has worked with EPA in Atlanta.

He went birding around the world when he worked at Audubon, and there's a large statue of an egret towering over his desk that was his parting gift from the group. In the spring, he likes to go to Prospect Park in Brooklyn to look for warblers, small songbirds migrating north for the breeding season.

When he's in Washington, he likes to look for birds at the National Arboretum.

He and his wife, Lee Palmer, live in an apartment on Capitol Hill with a rain barrel and a green roof. Palmer is the upper school principal at Sidwell Friends School. They have two adult daughters who live in New York and Boston.

Perciaspe has even built special housing on their roof for chimney swifts -- birds that lived in dead tree cavities before cities cropped up.

"When cities started to be built, they started nesting inside chimneys; that's how they got their name," he said. But now, people are sealing up their chimneys in the summer or putting screens over them. "The habitat that evolved for these birds were chimneys, and they're becoming unavailable."

To help them out, "you can build a plywood shaftlike thing up on your roof" where they can nest, Perciaspe said. He's done just that and gotten some takers. "We had some two years ago."

He credits EPA with making cities more livable -- for birds and for people.

On a recent walk with his wife and some friends on the promenade in Brooklyn Heights, they took in the view of Manhattan across the water. "And I said, 'You see, if this was Beijing, you wouldn't be able to see that,'" he said. "Cities are way cleaner than they used to be, and part of that is EPA."

Delaware Cape Gazette

Residents demand water testing near pickle plant

Colbalt showing up in wells, homeowners say

By Ron MacArthur | Feb 27, 2014

They meet every week to drink coffee around the table, but this group has much more on their minds than small talk.

Every Monday morning, Possum Point area residents gather to discuss ways to stop a proposed chicken processing operation from opening at the site of the vacated Pinnacle/Vlasic pickle plant, just a few hundred feet from where they are gathering.

Recently the discussion focused on water contamination, which, resident Dotty LeCates said, tops the list of concerns. “We are talking about the health of a lot of people in this area,” she said.

She said the state could clear up a lot of concerns by conducting thorough testing of nearby wells. Meanwhile, she said, the group is suggesting residents use bottled water.

Most who gathered are active members of Protecting our Indian River, formed to oppose the project, which proponents say could bring 700 new jobs to the Millsboro area.

The group contends that a large underground pollution plume has migrated from the Vlasic site and is threatening the drinking water of as many as 2,000 nearby residents.

Allen Harim Foods LLC, which bought Delaware-based poultry producer Allen Family Foods in 2011 after Allen filed for bankruptcy protection, announced last April that it planned to spend \$100 million to convert the 107-acre Vlasic site into a processing plant producing raw and cooked poultry products.

The county board of adjustment granted a special-use exception for the plant, but activists have appealed that decision in Sussex County Superior Court. The organization also filed an appeal with Delaware Environmental Appeals Board against a Department of Natural Resources and Environmental Control order approving a remediation plan for the Vlasic brownfield site.

Operating on a shoe-string budget based on donations from concerned residents, the group also talks about ways to raise funds. Most of its treasury has been depleted to cover legal costs.

Discussions take the serious side

LeCates said a major function of the group is to educate its members. “We are learning a lot about the process and the environment,” she said.

“I wouldn't have moved here if I had known then what I know now,” said Barry Goldman, a resident of Wharton's Bluff.

The retired AT&T manager moved to the area 10 months ago. “I feel locked in now,” he said.

After he learned about the proposed chicken processing plant, he began to spend a lot of time doing research. He learned that besides the Vlasic brownfield site, there are two Superfund sites near the former pickle plant. In addition, he said, Millsboro's town water must undergo additional treatment because of a contaminated plume under part of the town.

“There are an overwhelming amount of polluted sites for such a small area,” he said.

The group points to statements made by Allen Harim officials that about 100 new poultry houses would be needed to supply the new processing plant. Officials say many of those houses would be built on existing poultry farms. Allen Harim already contracts with more than 200

independent family farms.

“There are 12 chicken processing plants in Sussex County, including a large one – Mountaire – just a few miles away from this site. Why are we the dumping ground for the chicken processing industry?” asked Cindy Wilton, one of the founders of Protecting our Indian River.

Group says plume is moving

While members of the group say contamination is leaving the site, state environmental officials say well monitoring has shown no proof that's the case.

Protecting Our Indian River raised \$800 to sample 13 private wells with eight testing positive for cobalt. It's one of the contaminants found on the Vlasic site, said Maria Payan, representing Socially Responsible Agriculture Project.

The group says their research shows that exposure to high levels of cobalt can damage human health. Cobalt is a naturally occurring element found in soil, water and plants, according to the Agency for Toxic Substances and Disease Registry, and is not harmful to humans or animals in low doses. However, exposure to high levels of cobalt can affect the lungs and heart and cause skin irritation. Liver and kidney effects have also been observed in animals exposed to high levels of cobalt, according to the agency.

The results of well testing were turned over to the Delaware Department of Health and within a day, state officials were in the area conducting their own tests, Payan said.

“They were here at night testing using flash lights,” she said. “Obviously, there is a level of concern. The state has confirmed our results,” she said.

The group also points to a 1991 DNREC memo stating concern for a “slug of nitrate-laden groundwater heading in a northerly direction which, if not kept in check, might migrate off the site and be a potential threat to the numerous shallow household wells in the northeast side of Possum Point.”

The group has continually asked for more intensive testing of household wells in the area, tests that cost at least \$600 each. “It's something the state should do,” Wilton said.

Jay Meyer, who writes a blog on the group's website, questions how the Markell administration could tout efforts to clean up the state's waterways and at the same time support a project that would discharge as much as 14 million gallons of wastewater a week into the Indian River in an area that already has environmental stresses.

College students visit the area

Protecting Our Indian River in early February hosted an environmental studies class and two professors from Wilson College in Chambersburg, Pa. Students are doing senior projects on the impact of the proposed project.

The students are tackling the issues from four sides, Payan said: science and research; the planning and zoning process; community impact; and politics. "This is something they would never be able to get in the classroom," Payan said.

The group conducted interviews with residents, toured the area and met with Rep. John Atkins, D-Millsboro, Sen. Gerald Hocker, R-Ocean View, and former Sen. George Bunting.

Students will continue interviews with people on both sides of the issues and present a report on their findings.
